

PLANNING COMMISSION MINUTES

August 18, 2009

7:00 p.m.

Present: Chairman Clark Jenkins, Vice-Chairman Tom Smith, Dave Badham, Michael Allen, City Council Representative Beth Holbrook, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Absent: Barbara Holt and Ray Keller.

Clark Jenkins welcomed all those present.

Michael Allen made a motion to approve the minutes for August 4, as written. Dave Badham seconded the motion and voting was unanimous in favor.

Clark Jenkins explained the procedure for holding a public hearing.

1. PUBLIC HEARING - Consider approving or disapproving an amendment to Title 14, Chapter 5 (Residential Multi-Family Zone), to allow assisted living facilities, located at approximately 325 W. 400 N., J & F Family Holdings, Inc. Applicants.

Greg Schmidt, Richard & Kathleen Walker, representing Walker Development Group, and Rick Walker, President of Wentworth Senior Living, were present. Aric Jensen explained that Mr. John Smith, representing J & F Family Holding, Inc., is requesting an amendment to Title 14, Chapter 5, to include Assisted Living Facilities as a permitted use. The basis of the petition is that J & F Family Holding would like to develop an assisted living facility on approximately 4+ acres of land that they own east of the Silvercreek Commercial project. This property is zoned RM-13, which currently doesn't allow assisted living facilities. Any change to the ordinance would have to be applicable to all other properties within the Multi-Family Residential (RM) zone.

An assisted living facility and an independent living facility are both blends of residential uses and limited commercial uses. The primary use of both is as a residence for multiple individuals, similar to an apartment or condominium building. However, there are secondary commercial attributes such as employees regularly driving to and from the site, commercial truck deliveries, commercial kitchen operations, etc., that are typical of any residential zone. Both independent and assisted living facilities can be compatible with strictly residential uses, but only when located and configured properly.

In the case of the J & F Family Holding property, an assisted living facility could be a good buffer between the elementary school on the north, the existing multi-family dwellings on the south, and the heavy commercial to the west. There are other developable parcels within the (RM) zones that are not appropriate for such a use, or that might need certain modifications to become appropriate. Staff's recommendation is to allow Independent Living Facilities and

Assisted Living Facilities as a conditional use on parcels of ground at least 2 acres in size.

In addition to allowing the uses, the issue of density should be addressed (i.e., number of units verses number of beds.) Under the old definition of “Retirement Facility,” the standard was 3 beds = one unit.

Calculating the density for independent living facilities is more difficult because sometimes the units are set up as completely independent apartments, such as Riley Court. In this situation it is common to have couples living in a unit, which upsets the calculation based on the number of beds, as mentioned before. Also, it is not uncommon for an independent living facility to have two bedroom units where guests can visit and stay with the residents for limited periods of time, such as at Riley Court. There is no uniform standard for calculating density in such a situation. In a study done for Venice, California, the recommended standard was 30 units per acre if the units had kitchens, and 55 per acre if they didn’t have kitchens, which in Bountiful’s situation would be a conversion factor of 1.5 independent living units w/kitchens = 1 typical multi-family unit. In a presentation at the Fall 2008 Michigan APA Conference, a panel of experts from both the public and private sector stated that a typical senior residential project (having a mix of independent and assisted living units), has a project density conversion factor of approximately 2.5 senior units to every 1 typical multi-family unit. Densities of 8-16 multi-family units are equivalent to 20-40 mixed senior units.

Staff recommends using the term “occupant,” rather than bed, because more than one person could occupy a bed. The Planning Commission concurred with staff’s recommendation of including a provision stating that within the (RM) zone, the density for assisted living facilities shall be 3 occupants = 1 unit.

Based on the information currently available, staff recommends the following density conversion ratios:

Assisted Living
_____ 3 occupants = 1 multi-family unit

Independent Living
_____ Single occupancy units w/o kitchen – 3 units to 1 multi-family unit
_____ Two occupant units w/o kitchens – 2 units to 1 multi-family unit
_____ Single or two occupancy units with kitchens – 1.5 units to 1 multi-family unit

Using these factors, a development of 180 mixed senior units would breakdown as follows:

<u>Total # units</u>	<u>180</u>	<u>Conv Fact</u>	<u>W Value</u>
Assisted Living	90	3	270
Ind Living 1 occ w/o kitchen	30	3	90
Ind Living 2 occ w/o kitchen	30	2	60

Ind Living 1 or 2 occ w/kitchen	30	1.5	45
Total	180		465
Avg Conv Factor		2.58	

The reason for the discrepancy between units with kitchens and those without has to do with mobility. A unit with a full kitchen is really not any different than a senior apartment, except that it is located in a mixed setting. People who occupy these units are more likely to still own a car and drive, although probably not as frequently as those who live in senior units not associated with an assisted living facility, such as the senior apartments at the Village on Main. People who drive and who have a higher range of mobility will have a greater impact than those who do not.

Staff recommends approving Ordinance 2009-06, amending Title 14 Chapter 5 to allow Independent Living Centers and Assisted Living Centers as conditional uses on properties at least 2 acres in size.

Gregg Schmidt, representing the applicant, asked that staff and the Commission clarify the definition of “Kitchen” as applied to an independent living unit, because they would like to include kitchenettes in some of their independent living units.

The public hearing was opened for all those with comments or concerns.

Martha Kerr, residing at 420 W. 400 N., asked that all issues be brought to the table now to prevent any future problems. Ms. Kerr explained that Mr. Smith came to her home and explained his plans for the use of the sod farm for an assisted living facility. She asked that the trees along her property line remain and the issue of the facility being along the flood plain be addressed and resolved before building.

Mr. Jensen assured Ms. Kerr that the flood plain issue is being addressed.

The public hearing was closed without further comments.

There was a discussion regarding the minimum lot size (2 acres) for this type of facility, the definition of “kitchen” as applied to an independent living unit, the wording for “bed” versus “occupant”, and the location of the creek. The developers are working with flood control to resolve any issues and a definition for “kitchen” will be included by Staff in the ordinance. The Planning Commission agreed to recommend the term “occupant,” rather than bed, because more than one person could occupy a bed. The Commission also agreed that this would be a good location for this type of facility and would be a good buffer between the Commercial and the Residential Zones.

Tom Smith made a motion to recommend that the City Council amend Title 14, Chapter 5 (Residential Multi-Family Zone), to allow independent and assisted living facilities as

conditional uses on properties at least 2 acres in size, as recommended by staff, and that definition of “kitchen” be added as discussed. Michael Allen seconded the motion and voting was unanimous in favor.

2. PUBLIC HEARING - Consider approving or disapproving a variance to allow for a reduced minimum lot size, lot width, side yard, and rear yard requirements of the R-4 Zone.

Consider approval for a metes and bounds subdivision for 250 E. 400 N., Emmanuel Shanthakumer and Stanford Andrews, applicants.

Stanford Andrews, applicant, Craig Smith, Legal Counsel, and Dan Wight, previous owner of the property, were present. Aric Jensen explained that the applicants, Emmanuel Shanthakamur and Stanford Andrews, are owners of the property for which the variance and subdivision request is being made. A letter was prepared and sent to each Commission Member on behalf of the applicants by Mr. Smith explaining the situation and the reason for their request. This letter was prepared after consultation with City staff and generally reflects the staff position.

Mr. Jensen explained that the proposed metes and bounds subdivision can only be approved if the Commission approves all of the requested variances. The reason that staff is recommending a metes and bounds subdivision instead of the typical subdivision plat is that Mr. Andrews has stated that he would like to plat the apartment units as a PUD at some time in the near future, and if a subdivision plat were recorded at this time it would make the PUD plat process that much more cumbersome.

The applicants bought the properties unaware that the illegal subdivision made by Mr. Wight had occurred. Staff internally reviewed the options available, some of which included criminally charging the original property owner, filing an action to vacate the sales and the parcel division, and the current proposal of requesting a variance and metes and bounds subdivision. Staff decided to recommend the latter simply because the other approaches would have been time consuming and would have been disruptive to the current owners who weren't involved in the original misdeed.

First Motion

Staff recommends approval of the variances from the Land-Use Ordinance as set forth in the letter, (which will be attached to the minutes), with the findings set forth in said letter.

Second Motion

Staff recommends approval of a metes and bounds subdivision, as shown on the survey prepared by Hill and Argyle, dated April 21, 2009.

Russell Mahan explained that the applicants are the current owners. Mr. Dan Wight is the

previous owner who caused this situation. Mr. Mahan recommended two conditions be placed on the variance:

1. The variance is conditioned on the City Council approval of the metes and bound subdivision.
2. The appropriate legal deeds shall be created and recorded in accordance with the boundaries of the two parcels shown on the Hill and Argyle survey (Parcel A containing all five apartment units, and Parcel B containing the single home).

The public hearing was opened for all those with comments or concerns.

Dan Wight admitted that he made an error by selling the property without going through the legal process. He was not trying to break the law and now would like to rectify the situation. Mr. Wight apologized for his actions.

Stanford Andrews explained that Craig Smith, (Mr. Wight's attorney), sent him a letter that proposed a solution to help solve the situation. Mr. Andrews has no problem with the proposal. Mr. Andrews also talked with the Fire Marshall and there were some concerns with the fence line being too close to the building. Relocating the property line and removal of the fence and irrigation system was recommended by the Fire Marshall.

Mr. Wight explained that he has talked to the owner of the home and has agreed to pay the expense of removal and replacing the fence and the irrigation system.

Craig Smith explained that he was hired to resolve the situation. He feels that the proposal is the best solution for a bad situation.

The public hearing was closed without further comments.

After a discussion the Commission determined that this is a unique and awkward situation and the best solution to this problem would be the recommendation by Staff.

Michael Allen made a motion to approve the variance located at 250 E. 400 N. for the reasons stated in the application, subject to the findings and conditions outlined by Staff.

1. The variance is conditioned on the City Council approval for the metes and bound subdivision.
2. The appropriate legal deeds shall be created and recorded in accordance with the boundaries of the two parcels shown on the Hill and Argyle survey (Parcel A containing all five apartment units, and Parcel B containing the single home).
3. The fence between the rear of the single home and the north side of the apartments shall be relocated in accordance with the new property line shown on the Hill and Argyle survey.

Dave Badham seconded the motion and voting was unanimous in favor.

Beth Holbrook made a motion to recommend to the City Council approval for a metes and bounds subdivision located at 250 E. 400 N. as shown on the survey submitted to the Planning Commission by Hill & Argyle. Tom Smith seconded the motion and voting was unanimous in favor.

3. Planning Director's report and miscellaneous business.

Aric Jensen gave an update for the agenda for September 1, 2009. The agenda will include a public hearing for approval/disapproval of a variance to allow a circular driveway located at 900 S. Orchard Drive.

Meeting adjourned at 8:00 p.m.